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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,716	01/04/2001	Christian M. Hoebener	DAL0002.01	2096

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BAKER & DANIELS
205 W. JEFFERSON BOULEVARD
SUITE 250
SOUTH BEND, IN 46601

EXAMINER

SY, HOLLY N

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 12/05/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/754,716

Applicant(s)

HOEBENER ET AL.

Examiner

Holly Sy

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 10-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is the first office action for application number 09/754,716, Mount For TV Monitor, filed on January 4, 2001.

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the post office address of each inventor. A post office address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The post office address should include the ZIP Code designation.

Drawings

The drawings are objected to because of the following:

1. Figs. 2-4, nut 48 is not shown as is indicated in Fig. 1, and
2. Figs. 2-4, opening 78 is not shown as is indicated in Fig. 1.

Correction is required.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned on page 3, line 11 and page 4, line 22 of the description: 10, 74. Correction is required.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 20' in Fig. 1 and 4 in Fig. 5. Correction is required.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided.

The abstract of the disclosure is objected to because "said" on page 10, line 8, is improper language. Correction is required. See MPEP § 608.01(b).

Claim Objections

Claims 1, 3-4, 9, 12, 16 and 20 are objected to because of the following informalities:

1. claim 1, line 1, a colon should be inserted after "comprising",
2. claim 1, line 5, "catch part" before "slot" should be deleted for the purpose of consistency,
3. claim 3, line 5, ---said--- should be inserted before "nut",
4. claim 4, line 2, "support" should be replaced with ---said---,
5. claim 9, line 1, a colon should be inserted after "comprising",
6. claim 9, line 1, "a" before "an" should be deleted,
7. claim 9, line 3, "said slot" should be replaced with ---that is---,
8. claim 9, line 4, "catch part" before "slot" should be deleted for the purpose of consistency,
9. claim 12, line 5, ---said--- should be inserted before "nut",
10. claim 16, line 1, a colon should be inserted after "comprising",
11. claim 20, line 3, "and" should be replaced with ---of---,

12. claim 20, line 4, ---said--- should be inserted before "key", and

13. claim 20, line 4, ---said--- should be inserted before "nut".

Appropriate correction is required.

Claim 4 is objected to because they include reference characters which are not enclosed within parentheses.

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 and 16-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "such as" and "or similar" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 2 recites the limitation "including an arcuate portion" in lines 2-3. It is unclear whether the catch part or the retainer includes the arcuate portion.

Regarding claim 3, the word "means" is preceded by the word(s) "constituting" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim 5 recites the limitation "said bolt" in line 2. It is unclear whether applicants are referring to the bolt in claim 3, line 3 or claim 5, line 2. Therefore, the claims are deemed vague and indefinite.

Claim 5 recites the limitation "said nut" in line 3. It is unclear whether applicants are referring to the bolt in claim 3, line 4 or claim 5, line 1. Therefore, the claims are deemed vague and indefinite.

Claim 6 recites the limitation "the rotational orientation" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the limitation "said bolt" in line 2. It is unclear whether applicants are referring to the bolt in claim 12, line 3 or claim 14, line 1. Therefore, the claims are deemed vague and indefinite.

Regarding claim 16, the phrase "such as" and "or similar" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 19 recites the limitation "the rotational orientation" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 20 recites the limitation "the vertical" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 9 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,400,993 to Hamilton. For the purpose of this discussion, please refer to the attached marked-up copy of Fig. and 3 for reference numerals not indicated in the patent drawings. Hamilton discloses a mount 10 including a frame 14,16,18, an upper catch part 112 with a slot 112a therein that is located centrally to side portions 50,52 of the frame, and a swivel part 108a suspended from a support 108b wherein the swivel part is fitted into the slot and engages the catch part (note Figs. 1-3). Hamilton also discloses that the catch part includes a tubular member 116.

In Figs. 1 and 5, Hamilton discloses another embodiment of the support and swivel 108 and the upper catch part 106 that is used to support the frame. For the purpose of claim 18 only, this embodiment is relied upon. Hamilton discloses that the mount also includes a rotation member. The rotation member is the pin that fastens the upper catch part to frame part 48 for allowing rotation about vertical axis V (note Figs. 1 and 5). See *a/so* Hamilton, column 5, lines 21-30.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton as applied to claim 18 above. Hamilton discloses the invention substantially as claimed. However, Hamilton does not disclose that the rotation member is a bolt that may be fixed by tightening a nut. It is common knowledge in the prior art to use a bolt and nut for the purpose of fixing an object that can pivot about the bolt's vertical axis and then be fixed at a selected orientation by threading a nut on the bolt.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the Hamilton mount with a bolt and nut in place of the pin in order to provide a functionally equivalent means for allowing rotation of the frame about the vertical axis and then securing the frame at a desired orientation.

Allowable Subject Matter

Claims 2-8 and 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 10-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the primary reason for the indication of allowable subject matter of the claims in this case, is the inclusion of a swivel part including a barrel-shaped member and a rotation member, in combination with the other elements recited, which is not found in the prior art.

Since allowable subject matter has been indicated, applicant is encouraged to submit formal drawings in response to this Office Action. The early submission of formal drawings will permit the Office to review the drawings for acceptability and to resolve any informalities remaining therein before the application is passed to issue. This will avoid possible delays in the issue process.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 2,956,768 to Livingston

U.S. Patent 4,447,031 to Souder et al.

U.S. Patent Des. 377,897 to Vogels

U.S. Patent 5,927,668 to Cyrell

U.S. Patent 6,318,692 B1 Cyrell

UK Patent Application GB 2 100 090 A to Bernard


The above patents disclose various types of mounts.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Holly Sy whose telephone number is (703) 605-1183.

The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (703) 308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3598 for regular communications and (703) 305-3598 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Holly Sy
Patent Examiner
Technology Center 3600
Art Unit 3632
November 30, 2001


RAMON O. RAMIREZ
PRIMARY EXAMINER
ART UNIT ~~363~~ 2